

The opinion in support of the decision being  
entered today is not binding precedent of the Board.

Paper 27

Filed by: Trial Section Merits Panel  
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UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

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MICHAEL M. BREZINSKI, TOMMY R. GARDNER,  
KAREN L. KING and JAMES L. LANE, Jr.,

Junior Party,  
(Application 08/073,370),

v.

JEAN PIERRE FERAUD, HERVE PERTHUIS and PHILIPPE DEJEUX,

Senior Party  
(Application 07/889,543).

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Patent Interference No. 104,448

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Before: McKELVEY, Senior Administrative Patent Judge, and  
SCHAFFER and LEE, Administrative Patent Judges.

McKELVEY, Senior Administrative Patent Judge.

**JUDGMENT PURSUANT TO 37 CFR § 1.662**

Upon consideration of the BREZINSKI CONCESSION OF  
PRIORITY AND REQUEST FOR ENTRY OF ADVERSE JUDGMENT (Paper 25),  
it is

ORDERED that judgment on priority as to Counts 1<sup>1</sup> and 2,<sup>2</sup> the sole counts in the interference, is awarded against junior party Michael M. Brezinski, Tommy R. Gardner, Karen L. King and James L. Lane, Jr.

FURTHER ORDERED that judgment on priority as to Counts 1 and 2 is awarded in favor of senior party Jean Pierre Feraud, Herve Perthuis and Philippe Dejeux.

FURTHER ORDERED that, on the record before the Board of Patent Appeals and Interferences, senior party Jean Pierre Feraud, Herve Perthuis and Philippe Dejeux is entitled to a patent containing claims 2, 8-9 and 18-21 (corresponding to Count 1) of application 07/889,453, filed 27 May 1992.

FURTHER ORDERED that, on the record before the Board of Patent Appeals and Interferences, senior party Jean Pierre Feraud, Herve Perthuis and Philippe Dejeux is entitled to a patent containing claim 22 (corresponding to Count 2) of application 07/889,453, filed 27 May 1992.

FURTHER ORDERED that junior party Michael M. Brezinski, Tommy R. Gardner, Karen L. King and James L. Lane, Jr., is not entitled to a patent containing claims 11-15, 20-

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<sup>1</sup> A copy of Count 1 appears on page 46 of Paper 1.

<sup>2</sup> A copy of Count 2 appears on page 2 of Paper 22.

25 and 42-61 (corresponding to Count 1) of application  
08/073,370, filed 7 June 1993.

FURTHER ORDERED that junior party Michael M.  
Brezinski, Tommy R. Gardner, Karen L. King and James L. Lane,  
Jr., is not entitled to a patent containing claims 26-30 and  
35-40 (corresponding to Count 2) of application 08/073,370,  
filed 7 June 1993.

FURTHER ORDERED that the settlement agreement  
(Paper 26) filed by the parties pursuant to 35 U.S.C. § 135(c)  
will be maintained separate from the interference file.

_____	)	
FRED E. McKELVEY, Senior	)	
Administrative Patent Judge	)	
	)	
	)	
_____	)	
RICHARD E. SCHAFER	)	BOARD OF PATENT
Administrative Patent Judge	)	APPEALS AND
	)	INTERFERENCES
	)	
_____	)	
JAMESON LEE	)	
Administrative Patent Judge	)	

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